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8
9 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10
11 “LILY,” “SARAH,” PIKE’S PLACE
12 PROBATE SERVICES, Conservator for
“SIERRA”, “JANE DOE” as court appointed
13 conservator for “SKYLAR” a minor,
“MAUREEN,” WILLIAM L.E DUSSAULT
14 as Guardian ad Litem for “VIOLET,” minor,
“JANE ROE,” as next friend for “PIA,” a
15 minor, “MYA,” “AVA,” “FIONA,” “JENNY,”
“MARY DOE” as next friend for “ANNA, a
16 minor” and “MARY SMITH” as next friend
for “APRIL,” a minor.

17 Case No: 3:21-cv-09907

18 Plaintiffs,

19 v.
20 EUGENE EDWARD JUNG,
21 Defendant.

JOINT CASE MANAGEMENT
STATEMENT & [PROPOSED] ORDER

22
23
24 The parties to the above-entitled action jointly submit this JOINT CASE MANAGEMENT
25 STATEMENT & PROPOSED ORDER pursuant to the *Standing Order for All Judges of the Northern*
26 *District of California* and Civil Local Rule 16-9.

27
28 JOINT CASE MANAGEMENT STATEMENT & [PROPOSED]
-- ORDER

1 1. Jurisdiction & Service

2 The court's subject matter jurisdiction derives from this matter being based upon federal
3 statute, specifically 18 U.S.C. 2255. Defendant has been personally served. Plaintiffs submit that no
4 issues exist regarding personal jurisdiction. Defendant is incarcerated in the Central District of
5 California. No other parties remain to be served.

6 2. Facts

7 Each of the plaintiffs are the subjects in series of child pornography images and videos.
8 Defendant pleaded guilty to and was convicted of possessing and distributing child pornography
9 including the images and videos of the plaintiffs. Plaintiffs contend that they have each suffered
10 personal injury as a result of defendant's violation of federal child pornography law and seek
11 liquidated damages, attorney's fees and costs as allowed by statute.

12 Defendant has alleged multiple affirmative defenses disputing that plaintiffs have stated a valid
13 claim against him, that he has caused them any harm, or that they have sustained personal injuries or
14 actual damages as a result of his conduct, that plaintiffs' injuries are the result of pre-existing
15 conditions or caused by others, that plaintiffs have failed to mitigate their damages, and that their
16 damages are speculative. Defendant has further alleged affirmatively that plaintiffs' claims are barred
17 by the statutes of limitation, res judicata, and collateral estoppel; that plaintiffs have no standing, and
18 that plaintiffs have failed to join indispensable parties.

19 3. Legal Issues

20 Plaintiffs allege that defendant must pay liquidated damages, attorney's fees and costs, based
21 upon his admitted possession of their child sex abuse images in violation of 18 U.S.C. § 2252 (a)(2)
22 and (b)(1), and 18 U.S.C. § 2252 (a)(4)(B) and (b)(2).

1 Defendant alleges that because some of the Plaintiffs were the recipients of an order of
2 restitution under which they have received restitution, they are barred from bringing a civil claim
3 against him. Plaintiffs contend that their claims are entirely separate from and distinguishable from
4 claims for restitution in the criminal prosecution of defendant although they acknowledge that
5 Defendant is entitled to an offset for the restitution he has already paid the Plaintiffs.

6
7 4. Motions

8 No motions have been brought or are pending. Plaintiffs intend to bring a motion to strike
9 certain affirmative defenses and for summary judgment.
10

11 5. Amendment of Pleadings

12 No amendments are anticipated.
13

14 6. Evidence Preservation

15 The parties do not foresee any ESI issues. Neither party has ESI information to be preserved
16 other than the discovery which may have been received by defendant and his criminal defense attorney
17 in the course of his criminal prosecution.
18

19 7. Disclosures

20 The parties have not yet made initial disclosures.
21

22 8. Discovery

23 No discovery has been served by either party to date.
24

25 9. Class Actions

26 This is not a class action.
27

28 10. Related Cases

29 No related case is currently pending, however, the criminal prosecution of defendant for child
30 pornography offenses in case number 3:18-cr-00482-VC-1 was brought before this court. Defendant
31

1 was sentenced on June 21, 2021, and an amended judgment providing for restitution for some of the
2 plaintiffs was entered on June 25, 2021.

3 11. Relief

4 Plaintiffs each seek \$150,000 in liquidated damages from defendant as provided for in 18
5 U.S.C. § 2255. Plaintiffs also seek their attorney's fees and costs as allowed by this statute.
6

7 Defendant contends that restitution has been ordered and paid through the criminal case, taking
8 into account the defendant's financial condition, felony conviction and term of incarceration.
9

10 12. Settlement and ADR

11 The parties are amenable to participating in an early Settlement Conference. However, due to
12 communication difficulties with the Defendant who is in the custody of the Bureau of Prisons and
13 counsels' respective schedules, the earliest time frame for a Settlement Conference would likely be in
14 the month of September 2022. From Plaintiffs' perspective, the informal disclosure of certain
15 financial information by Defendant will be helpful to facilitating settlement negotiations.
16

17 13. Consent to Magistrate Judge For All Purposes

18 *Whether all parties will consent to have a magistrate judge conduct all further proceedings
19 including trial and entry of judgment. YES NO*

20 14. Other References

21 This case is not suitable for binding arbitration, a special master, or the Judicial Panel on
22 Multidistrict Litigation.
23

24 15. Narrowing of Issues

25 *Issues that can be narrowed by agreement or by motion, suggestions to expedite the
26 presentation of evidence at trial (e.g., through summaries or stipulated facts), and any request to
27 bifurcate issues, claims, or defenses.*

1 Counsel intend to discuss these issues.

2 16. Expedited Trial Procedure

3 This case cannot be handled under the Expedited Trial Procedure at this time.

4 17. Scheduling

5 The parties propose the following dates:

6 Completion of ADR-----October 31, 2022

7 Designation of Experts-----November 30, 2022

8 Discovery cutoff-----January 31, 2023

9 Hearing of Dispositive motions-----March 31, 2023

10 Pretrial conference and trial-----May 1, 2023

11 18. Trial

12 Plaintiffs request a jury trial and expects the length of trial to be two days.

13 Defendant requests a jury trial, and estimates the length of trial to be five days.

14 19. Disclosure of Non-party Interested Entities or Persons

15 Plaintiffs and Defendant will file the Certification of Interested Parties.

16 20. Professional Conduct

17 All attorneys have reviewed the Guidelines for Professional Conduct for the Northern District
18 of California.

19 21. Other

20 *Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter.*

1 Dated: May 19, 2022

/s/ John A. Kawai

2 John A. Kawai
3 Counsel for Plaintiffs

4

5 Dated: May 19, 2022

/s/ Petra Reinecke

6 Petra Reinecke
7 Counsel for Defendant

8

9

10 CASE MANAGEMENT ORDER

11 The above JOINT CASE MANAGEMENT STATEMENT & PROPOSED ORDER is
12 approved as the Case Management Order for this case and all parties shall comply with its provisions.
13 [In addition, the Court makes the further orders stated below:]

14

15

16 IT IS SO ORDERED.

17 Dated:

18 UNITED STATES DISTRICT/MAGISTRATE JUDGE